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Paper No.

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OFFICE OF PETITIONS

In re Application of: :
Hongjun Zhang and Ashok C. Patel :
Application No. 10/776,986 : DECISION DISMISSING
Filed: February 11, 2004 : PETITION UNDER
Title of Invention: APPARATUS AND : 37 CFR 1.47(a)
ASSOCIATED METHOD, FOR FACILITATING:
CONTROL OF CONTROL SIGNALING :
PERFORMED BY A MOBILE NODE OPERABLE:
IN A RADIO COMMUNICATION NETWORK :

This is in response to the Petition Under 37 CFR § 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, AND BE ADDRESSED TO Attorney Derek L. Woods. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 11, 2004, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on May 12, 2004, requiring *inter alia*, a properly signed oath or declaration.

In response to the Notice, Applicant files the instant wherein Applicant avers that the nonsigning inventor cannot be found or reached after diligent effort. This assertion is supported by a

Declaration of David B. Cochran ("Cochran Declaration") wherein Applicant avers that after sending inventor Zhang a copy of the Declaration via Fed Ex, and having the package returned with an indication that inventor Zhang no longer resided at his last known address, "[t]he assignee contacted several of Mr. Zhang's associates in an attempt to ascertain his whereabouts, but was unsuccessful."

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), applicant is advised that, where an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted from a person with first hand knowledge of the facts relied upon that *fully describes the exact facts* which are relied on to establish that a diligent effort was made to locate the inventor. (Emphasis supplied). See, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. See, MPEP § 409.03(d).


Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney Advisor
Office of Petitions